

## EXHIBIT 1

### INTRODUCTION

Respondent United Food and Commercial Workers Issue Education Fund (the “Committee”) is a state general purpose campaign committee, sponsored by the United Food and Commercial Workers Region 8 States Council (the “Sponsor”). The Committee and the Sponsor are located in Buena Park, in Orange County. At all times relevant to this matter, Respondents John Perez and John Sperry were treasurers of Respondent Committee.<sup>1</sup> This case arose from two separate audits of Respondent Committee by the Franchise Tax Board (the “FTB”) for the reporting periods January 1, 1997 through December 31, 1998, and January 1, 1999 through December 31, 2000.

During the 1997-1998 audit period, Respondents reported receiving contributions totaling \$704,548, and making expenditures totaling \$949,566. In this audit, the FTB found that, in 1998, Respondents Committee and John Perez failed to timely file eight late independent expenditure reports disclosing late independent expenditures totaling \$78,172, failed to properly report contributions totaling \$16,910, and failed to properly report \$18,038 in miscellaneous receipts. In this audit, the FTB also found that Respondents Committee and John Sperry failed to timely file three supplemental independent expenditure reports.

During the 1999-2000 audit period, Respondents reported receiving contributions totaling \$397,988, and making expenditures totaling \$320,822. In this audit, the FTB found that, in 2000, Respondents Committee and John Perez failed to timely file a late contribution report disclosing a \$75,000 late contribution made to a state ballot measure committee.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the “Act”)<sup>2</sup> are stated as follows:

COUNT 1: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$14,744 in late independent expenditures made on or about May 19, 1998 in opposition to Proposition 226, by the May 20, 1998 due date, in violation of Section 84204, subdivision (a).

COUNT 2: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$1,094 in late independent expenditures made on or about May 22, 1998 in opposition to Proposition 226, by the May 23, 1998 due date, in violation of Section 84204, subdivision (a).

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<sup>1</sup> John Perez served as the treasurer of Respondent Committee from July 23, 1997 through December 15, 1998, and from June 23, 1999 through April 18, 2000. John Sperry served as the treasurer from December 16, 1998 through June 22, 1999, and from April 19, 2000 through December 31, 2000, the last date of the second audit reporting period.

<sup>2</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, Section 18109, et seq. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 3: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$33,617 in late independent expenditures made on or about May 27, 1998 in opposition to Proposition 226, by the May 28, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 4: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$11,366 in late independent expenditures made on or about May 28, 1998 in opposition to Proposition 226, by the May 29, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 5: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$1,093 in late independent expenditures made on or about June 1, 1998 in opposition to Proposition 226, by the June 2, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 6: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to properly report contributions totaling \$16,910 on the pre-election campaign statement filed for the reporting period July 1, 1998 through September 30, 1998, in violation of Section 84211, subdivision (f).
- COUNT 7: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to properly report miscellaneous receipts totaling \$18,038 on the pre-election campaign statement filed for the reporting period July 1, 1998 through September 30, 1998, in violation of Section 84211, subdivision (k).
- COUNT 8: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$10,838 in late independent expenditures made on or about October 19, 1998 in support of the campaign of Gray Davis for Governor, by the October 20, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 9: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$2,710 in late independent expenditures made on or about October 19, 1998 in support of the campaign of Bill Lockyer for Attorney General, by the October 20, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 10: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to file a late independent expenditure report, disclosing \$2,710 in late independent expenditures made on or about October 19, 1998 in support of the campaign of Delaine Eastin for Superintendent of Public Instruction, by the October 20, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 11: Respondents United Food and Commercial Workers Issue Education Fund and John Sperry failed to timely file a supplemental independent expenditure report by January

31, 1999, disclosing \$10,838 in independent expenditures made in support of Gray Davis for Governor for the reporting period from October 18, 1998 through December 31, 1998, in violation of Section 84203.5, subdivision (a).

COUNT 12: Respondents United Food and Commercial Workers Issue Education Fund and John Sperry failed to timely file a supplemental independent expenditure report by January 31, 1999, disclosing \$2,710 in independent expenditures made in support of Bill Lockyer for Attorney General for the reporting period from October 18, 1998 through December 31, 1998, in violation of Section 84203.5, subdivision (a).

COUNT 13: Respondents United Food and Commercial Workers Issue Education Fund and John Sperry failed to timely file a supplemental independent expenditure report by January 31, 1999, disclosing \$2,710 in independent expenditures made in support of Delaine Eastin for Superintendent of Public Instruction for the reporting period from October 18, 1998 through December 31, 1998, in violation of Section 84203.5, subdivision (a).

COUNT 14: Respondents United Food and Commercial Workers Issue Education Fund and John Perez failed to timely file a late contribution report, disclosing a \$75,000 late contribution made on February 26, 2000 to the “Taxpayers for Fair Elections/No on Prop 25” committee, by the February 27, 2000 due date, in violation of Section 84203, subdivision (a).

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

### **Independent Expenditures**

Section 82031 defines an “independent expenditure” as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to, or at the behest of, the affected candidate or committee.

### **Late Independent Expenditures**

Section 82036.5 defines a “late independent expenditure” as any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more, and is made for or against any specific candidate or measure involved in an election, before the date of the election but after the closing date of the last campaign statement required to be filed prior to the election by a candidate or committee participating in the election.

Under Section 84200.7, subdivision (a), the closing date of the last campaign statement required to be filed prior to the June 2, 1998 primary election was seventeen days prior to the election, or May 16, 1998. Under Section 84200.7, subdivision (b), the closing date of the last campaign statement required to be filed prior to the November 3, 1998 primary election was seventeen days prior to the election, or October 17, 1998.

### **Duty to File Late Independent Expenditure Reports**

Under Section 84204, subdivision (a), all candidates and committees making late independent expenditures are required to report the late independent expenditure by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time the expenditure is made.

When a late independent expenditure report must be filed by a candidate or committee, Section 84204, subdivision (c) provides that the report must be filed wherever the candidate or committee would be required to file campaign statements, if the candidate or committee were a committee formed or existing primarily to support or oppose the candidate or measure for or against which the late independent expenditure is being made. In the case of a late independent expenditure made in support or opposition to a candidate for a statewide elective office or a state ballot measure, Section 84215, subdivision (a) requires that the late independent expenditure report, disclosing the expenditure, be filed with the California Secretary of State, the Registrar-Recorder of Los Angeles County, and the Registrar of Voters for the City and County of San Francisco.

### **Duty to File Supplemental Independent Expenditure Reports**

Under Section 84203.5, as it was in effect between October 1998 and January 1999, candidates and committees that make independent expenditures of five hundred dollars (\$500) or more are required to file independent expenditure reports at the same time and same place where the candidate or committee on whose behalf the independent expenditure was made, would be required to file.<sup>3</sup> These “supplemental independent expenditure reports” must be filed in addition to other campaign statements, such as semi-annual campaign statements for the same reporting period, that are required to be filed.

### **Duty to Properly Report Contributions and Miscellaneous Receipts**

Section 84211 prescribes that certain information must be disclosed on campaign statements, which are required to be filed, including information about the contributions received, and the expenditures made by the committee. Pursuant to Section 84211, subdivision (f), when the cumulative amount of contributions received from any person, or group of persons acting in concert, equals or exceeds \$100, the cumulative amount of the contributions and information regarding the contributors must be reported on the committee’s campaign statements. In addition to the amount of the contribution and the date it was received, the recipient of the contribution must report the full name, street address, occupation and employer of the contributor.

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<sup>3</sup> Section 84203.5 was amended in 2000, and became effective January 1, 2001, raising the threshold from \$500 to \$1,000. Since the violations in this case occurred in 1998, the \$500 threshold is applicable.

Under Section 84211, subdivision (k), as it was in effect between July 1998 through October 1998, controlled committees, an official committee of a political party, or an organization formed or existing primarily for political purposes must report the amount and source of any miscellaneous receipts. Miscellaneous receipts are monetary funds received by a committee that do not constitute contributions. Pursuant to Section 82015, a monetary contribution is a payment received by a committee, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that the payment is not made for political purposes.

### **Duty to File Late Contribution Reports**

Under Section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the late contribution. Under this section, and Section 84215, subdivision (a), a late contribution report for a late contribution supporting or opposing a state ballot measure must be filed with the California Secretary of State, the Registrar-Recorder of Los Angeles County, and the Registrar of Voters for the City and County of San Francisco.

Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more, and that is received before an election, but after the closing date of the last pre-election campaign statement. Under Section 84200.8, subdivision (b), for an election not held in June or November of an even-numbered year, the closing date for the last pre-election campaign statement required to be filed prior to the March 7, 2000 primary election was seventeen days prior to the election, or February 19, 2000.

### **Liability of Committee Treasurers**

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

### **SUMMARY OF THE FACTS**

Respondent Committee is a state general purpose campaign committee, sponsored by the United Food and Commercial Workers Region 8 States Council (the “Sponsor”). The Committee and the Sponsor are located in Buena Park, in Orange County. During the audit period, Respondents John Perez and John Sperry served as treasurers of Respondent Committee.

In February 2001, the FTB completed an audit of Respondent Committee for the reporting period January 1, 1997 through December 31, 1998. According to the audit report, Respondents reported receiving contributions totaling \$704,548, and making expenditures totaling \$949,566 during the 1997-1998 audit period.

In July 2002, the FTB completed a second audit of Respondent Committee for the reporting period January 1, 1999 through December 31, 2000. According to the second audit report, Respondents reported receiving contributions totaling \$397,988, and making expenditures totaling \$320,822 during the 1999-2000 audit period.

**COUNTS 1 - 5**  
**Failure to File Late Independent Expenditure Reports**  
**June 2, 1998 Primary Election**

In the 1997-1998 audit, the FTB found that between May 19, 1998 and June 1, 1998, Respondents Committee and John Perez made payments to various vendors for campaign mailings, banners, and newspaper ads opposing Proposition 226 in the June 2, 1998 primary election. The late reporting period for the primary election was from May 17, 1998 to June 1, 1998. Proposition 226 would have prohibited unions and employers from withholding wages or union dues from union members or employees for political contributions, unless the union members or employees gave prior consent.

Respondents Committee and John Perez made payments to Pacific Admail, Kristal Graphics, Spinnelli Graphics, Pol-Arts, and List Management Services for the design, production, and mailing of several mailers opposing Proposition 226. Respondents Committee and Perez also made payments to Pacific Admail, Westwood Sign Service, and Union Hispana Newspaper for banners and newspaper ads that opposed Proposition 226. The payments were made, or services were rendered, between May 19, 1998 and June 1, 1998. The text of the mailers, banners and newspaper ads expressly urged the recipient or reader to vote against Proposition 226. The payments, which totaled \$61,914, qualified as late independent expenditures since they opposed a state measure, were in excess of \$1,000, and were made during the late reporting period prior to the June 2, 1998 primary election. The late independent expenditures that Respondents Committee and John Perez made during this time are set forth below:

Count	Date	Measure	Position	Description	Amount	Date Due
1	May 19, 1998	Proposition 226	Oppose	Voter List	\$ 1,247	
	May 19, 1998	Proposition 226	Oppose	Mailer	\$13,497	
Sub-Total					\$14,744	May 20, 1998

Count	Date	Measure	Position	Description	Amount	Date Due
2	May 20, 1998	Proposition 226	Oppose	Mailer design	\$ 197	
	May 20, 1998	Proposition 226	Oppose	Mailer design	\$ 257	
	May 22, 1998	Proposition 226	Oppose	Newspaper ad	\$ 433	
	May 22, 1998	Proposition 226	Oppose	Postage	\$ 207	
Sub-Total					\$ 1,094	May 23, 1998

Count	Date	Measure	Position	Description	Amount	Date Due
3	May 23, 1998	Proposition 226	Oppose	Design, printing	\$ 962	
	May 27, 1998	Proposition 226	Oppose	Banners	\$13,230	
	May 27, 1998	Proposition 226	Oppose	Mailers	\$19,425	
Sub-Total					\$33,617	May 28, 1998

Count	Date	Measure	Position	Description	Amount	Date Due
4	May 28, 1998	Proposition 226	Oppose	Banners	\$ 3,922	
	May 28, 1998	Proposition 226	Oppose	Voter lists	\$ 360	
	May 28, 1998	Proposition 226	Oppose	Mailer	\$ 6,325	
	May 28, 1998	Proposition 226	Oppose	Postage	\$ 759	
Sub-Total					\$11,366	May 29, 1998

Count	Date	Measure	Position	Description	Amount	Date Due
5	May 29, 1998	Proposition 226	Oppose	Newspaper ads	\$ 433	
	May 30, 1998	Proposition 226	Oppose	Postage	\$ 345	
	June 1, 1998	Proposition 226	Oppose	Voter lists	\$ 315	
Sub-Total					\$ 1,093	June 2, 1998

On June 5, 1998, three days after the primary election, Respondent Committee and John Perez filed five late independent expenditure reports disclosing the above late independent expenditures. Respondents should have filed the late independent expenditure reports within 24 hours of making the late independent expenditures between May 19, 1998 and June 1, 1998, as set forth above. By failing to do so, Respondents Committee and John Perez violated Section 84204, subdivision (a).

### COUNTS 6 – 7

#### Failure to Properly Report Contributions and Miscellaneous Receipts November 3, 1998 General Election

In the 1997-1998 audit, the FTB found that Respondents Committee and John Perez failed to properly itemize contributions and miscellaneous receipts on the pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998. Respondents reported receiving contributions totaling \$32,448, and making expenditures totaling \$17,387 during this reporting period on the original campaign statement filed October 6, 1998.

However, on Schedule A of the above campaign statement, which is designated for reporting “Monetary Contributions Received,” Respondents reported \$32,448 in total contributions as being contributions of less than \$100, meaning that no information regarding the contributors was disclosed on the schedule. In the body of Schedule A, Respondents typed the words – “Will Amend Report.”

In addition, on Schedule I of the above campaign statement, which is designated for reporting “Miscellaneous Increases to Cash,” Respondents reported no dollar amount for miscellaneous receipts

to cash. However, in the body of Schedule I, as with Schedule A above, Respondents typed the words – “Will Amend Report.”

The FTB initiated the 1998-1999 audit of Respondent Committee in August 2000. On December 11, 2000, Respondents Committee and John Perez filed an amendment to the above pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998. According to this amendment, of the \$32,448 in total contributions received during this period, all of this amount should have been itemized as either monetary contributions on Schedule A or as miscellaneous receipts on Schedule I. In addition, according to the FTB audit, Respondents Committee and John Perez failed to report a \$2,500 contribution from the Sponsor that was not disclosed on the original campaign statement for the reporting period July 1, 1998 through September 30, 1998.

Respondent Committee received checks totaling \$34,948 from various persons during the reporting period that were either campaign contributions, or payments to purchase advertisements in the Committee’s annual “Person of the Year” book, or a combination of the two. Since persons making payments for an advertisement in the annual “Person of the Year” book were receiving full and adequate consideration for all or a portion of their total payment, that amount would be considered as a “miscellaneous receipt” under the Act. The remaining portion of the payment, if it was more than the amount of the advertisement, would be considered as a “contribution” received by Respondent Committee.

According to Section 84211, subdivision (f), Respondents Committee and John Perez were required to disclose specific information regarding campaign contributions of \$100 or more on the campaign statement for the reporting period July 1, 1998 through September 30, 1998. According to Section 84211, subdivision (k), as it was in effect between July 1998 and October 1998, Respondents Committee and John Perez were required to report information regarding miscellaneous receipts on Schedule I of the campaign statements they were required to file.

Respondents Committee and John Perez received, but failed to properly itemize and disclose information regarding \$16,910 in contributions, and failed to properly report \$18,038 in miscellaneous receipts, on the campaign statement filed for the reporting period July 1, 1998 through September 30, 1998 as follows:

<b>Date</b>	<b>Contributor - Payer</b>	<b>Check Total</b>	<b>Contribution Amount – Sch. A</b>	<b>Misc. Receipt Amount – Sch. I</b>
07/02/98	UFCW Region 8 St. Council	\$ 2,500	\$ 2,500	
07/02/98	Harman Press, Inc.	\$ 1,250	\$ 800	\$ 450
07/08/98	Investment Research Co.	\$ 500		\$ 500
07/08/98	Eyecare Service Plan, Inc.	\$ 750		\$ 750
07/10/98	UFCW Union Local 135	\$ 2,000	\$ 390	\$1,610
07/10/98	UFCW Union Local 1288	\$ 1,250	\$ 390	\$ 860
07/13/98	Sun Graphics, Inc.	\$ 500		\$ 500
07/15/98	Vision Service Plan	\$ 600	\$ 600	
07/20/98	Gilbert & Sackman	\$ 1,250	\$ 800	\$ 450



07/22/98	UFCW Union Local 480	\$ 500	\$ 130	\$ 370
07/27/98	Spectera	\$ 5,000	\$2,000	\$3,000
07/27/98	PacificCare of California	\$10,000	\$4,000	\$6,000
08/03/98	Dennis Nakatani, O.D., Inc.	\$ 188		\$ 188
08/03/98	Gary Lazarus	\$ 188		\$ 188
08/10/98	Spinelli Graphics, Inc.	\$ 1,250	\$ 800	\$ 450
08/20/98	UFCW Union Local 99	\$ 1,250	\$ 390	\$ 860
08/27/98	Health Net	\$ 1,785	\$1,785	
08/27/98	UFCW Union Local 648	\$ 3,250	\$2,325	\$ 925
09/22/98	Mgmt. Health Services, Inc.	\$ 750		\$ 750
09/23/98	Jon Vogel	\$ 187		\$ 187
Totals		\$34,948	\$16,910	\$18,038

### **COUNT 6:**

Based on the foregoing, Respondents Committee and John Perez failed to properly itemize and disclose \$16,910 in contributions on the pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998, in violation of Section 84211, subdivision (f).

### **COUNT 7:**

Based on the foregoing, Respondents Committee and John Perez failed to properly report miscellaneous receipts, totaling \$18,038, on the pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998, in violation of Section 84211, subdivision (k).

### **COUNTS 8 - 10 Failure to File Late Independent Expenditure Reports November 3, 1998 General Election**

In the 1997-1998 audit, the FTB found that on October 19, 1998, Respondents made payments for a campaign slate mailer to support three candidates for statewide elected office, in the November 3, 1998 general election. The late reporting period for the November 3, 1998 general election was from October 18, 1998 to November 2, 1998.

On or about October 19, 1998, Respondents mailed a campaign slate mailer that supported the campaigns of Gray Davis for Governor, Bill Lockyer for Attorney General, and Delaine Eastin for Superintendent of Public Instruction. The total cost of the mailer was \$16,258, which included a \$9,450 payment to Pacific Admail, a \$5,000 payment to Kaufman Campaign Consultants, and a \$1,808 payment to Andy Melarkey for the design, production and postage for the mailer. Based on the size and placement of the candidates' names in the mailer, two thirds of the total payment for the mailer, or \$10,838, was attributed to Gray Davis, and one half of the remaining one third of the total payment, or \$2,710, was attributed to both Bill Lockyer and Delaine Eastin.

The above payments, which totaled \$16,258, qualified as late independent expenditures since they supported candidates for statewide elected office, were each in excess of \$1,000, and were made

during the late reporting period prior to the November 3, 1998 general election. The late independent expenditures that Respondents Committee and John Perez made during this late reporting period are set forth below:

Count	Date	Candidate	Office	Description	Amount	Date Due
8	October 19, 1998	Gray Davis	Governor	Slate Mailer	\$10,838	Oct. 20, 1998
9	October 19, 1998	Bill Lockyer	Attorney General	Slate Mailer	\$ 2,710	Oct. 20, 1998
10	October 19, 1998	Delaine Eastin	Supt. of Public Instruction	Slate Mailer	\$ 2,710	Oct. 20, 1998
Late Independent Expenditure Total					\$16,258	

Respondents failed to file late independent expenditure reports within 24 hours of making the late independent expenditures on October 19, 1998, as set forth above, in violation of Section 84204, subdivision (a).

**COUNTS 11 - 13**  
**Failure to File Supplemental Independent Expenditure Reports**  
**November 3, 1998 General Election**

In the 1997-1998 audit, the FTB found that prior to the November 3, 1998 general election, Respondents Committee and John Perez made three late independent expenditures on October 19, 1998, as discussed in Counts 8 through 10 above. Respondent Committee made three independent expenditures exceeding \$1,000 each in support of candidates for statewide elective office, after October 18, 1998, the closing date for the last pre-election campaign statement before the November 3, 1998 election. As such, Respondent Committee and John Sperry, who became the treasurer of Respondent Committee on December 15, 1998, were required to file supplemental independent expenditure reports with the Secretary of State's Office no later than January 31, 1999, for each independent expenditure.

The independent expenditures, and the dates by which they should have been disclosed in a properly filed supplemental independent expenditure report, are set forth below:

Count	Date	Candidate	Office	Description	Amount	Date Due
11	October 19, 1998	Gray Davis	Governor	Slate Mailer	\$10,838	Jan. 31, 1999
12	October 19, 1998	Bill Lockyer	Attorney General	Slate Mailer	\$ 2,710	Jan. 31, 1999
13	October 19, 1998	Delaine Eastin	Supt. of Public Instruction	Slate Mailer	\$ 2,710	Jan. 31, 1999
Supplemental Independent Expenditure Reports Total					\$16,258	

On December 11, 2000, following the initiation of the 1999-2000 FTB audit, Respondent Committee and John Sperry filed three supplemental independent expenditure reports disclosing the above independent expenditures. Respondents should have filed the supplemental independent expenditure reports on or before January 31, 1999, for the reporting period October 19, 1998 through

December 31, 1998, as set forth above. By failing to timely do so, Respondents Committee and John Sperry violated Section 84203.5.

**COUNT 14**  
**Failure to File a Late Contribution Report**  
**March 7, 2000 Primary Election**

In the 1999-2000 audit, the FTB found that Respondents Committee and John Perez made a \$75,000 contribution to the “Taxpayers for Fair Elections/No on Prop 25” committee on February 26, 2000. Proposition 25, a state ballot measure providing for campaign finance reform, including the public financing of election campaigns, was on the March 7, 2000 primary election ballot. The late reporting period for the March 7, 2000 election was from February 20, 2000 to March 6, 2000.

Respondents Committee and John Perez had a duty to file late contribution reports, disclosing, within 24 hours, any late contributions that were made or received by Respondents. The \$75,000 contribution Respondents made on February 26, 2000 qualified as a late contribution, because it was in excess of \$1,000, and was made during the late reporting period prior to the March 7, 2000 primary election. Respondents Committee and John Perez failed to file a late contribution report disclosing this late contribution within 24 hours of making it. The recipient of the late contribution filed a late contribution report on March 4, 2000 with the Secretary of State’s Office, disclosing their receipt of the \$75,000 late contribution.

By failing to file a late contribution report by February 27, 2000, disclosing the \$75,000 late contribution, as set forth above, Respondents Committee and John Perez committed a violation of Section 84203, subdivision (a).

**CONCLUSION**

Respondents were negligent in failing to file eight late independent expenditure reports prior to the June 2, 1998 primary election, and the November 3, 1998 general election. In aggravation, the total amount of late independent expenditures not timely reported in Counts 1 - 5, and Counts 8 – 10, totaled \$78,172, which is over 8% of the total expenditures made during the 1997-1998 audit period. Respondents filed late independent expenditure reports reporting the late independent expenditures detailed in Counts 1 –5, on June 5, 1998, three days after the June 2, 1998 primary election. As such, Respondents were aware of the requirement to file late independent expenditure reports.

After being notified during the FTB audit, Respondents filed the required supplemental independent expenditure reports, set forth in Counts 11 through 13, on December 11, 2000, for the independent expenditures made on October 19, 1998.

In mitigation, Respondents paid a \$460 fine to the Secretary of State’s Office for the delinquent filing of the late independent expenditure reports after the June 2, 1998 primary election. Respondents also do not have a prior history of committing violations of the Political Reform Act.

The typical administrative penalty for failing to file a late independent expenditure report has

historically ranged from \$1,000 to \$2,000 per report. For Counts 1, 3, 4 and 8, considering the aggravating circumstance that the failure to disclose late independent expenditures prior to the election dates deprived voters of time sensitive information and the significant size of these expenditures, an administrative penalty in the middle to upper end of the penalty range is appropriate. With regard to Counts 2, 5, 9 and 10, since the amount of the late independent expenditures in these counts is relatively small, ranging from \$1,093 to \$2,710 per report, an administrative penalty in the lower range is appropriate.

Regarding Counts 6 and 7, the typical administrative penalty for failing to properly report contributions and miscellaneous receipts on campaign statements has historically ranged from \$1,000 to \$2,000 per statement. Since the amount of the nondisclosure was fairly significant, an administrative penalty in the middle to upper range is appropriate.

Regarding Counts 11 through 13, the typical administrative penalty for failing to timely file a supplemental independent expenditure report has historically ranged from \$1,000 to \$1,700 per statement. Since the amount of non-disclosure in Count 11 was fairly significant at \$10,838, an administrative penalty in the middle of that penalty range is appropriate. With regard to Counts 12 and 13, since the amount of the independent expenditures not timely reported is relatively small at \$2,710 per report, an administrative penalty in the lower end of that range is appropriate.

Regarding Count 14, under the Enforcement Division's Streamlined Late Contribution Enforcement Program, the approved administrative penalty for failing to timely disclose a late contribution is fifteen percent of the amount of the undisclosed contribution, up to the statutory maximum penalty. Since fifteen percent of the \$75,000 late contribution not reported in this case exceeds the statutory maximum, the maximum penalty of \$2,000 is appropriate.

This matter consists of fourteen counts, which carry a maximum possible administrative penalty of Twenty Eight Thousand Dollars (\$28,000). Based on facts of this case, and the mitigating and aggravating circumstances addressed herein, the agreed upon total administrative penalty of Twenty Three Thousand Dollars. (\$23,000) is justified.